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SEA

SERVICE DATE – JULY 21, 2006

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-6 (Sub-No. 439X)

BNSF Railway Company - Abandonment Exemption - in Bottineau County, ND

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152.20 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Bottineau County, North Dakota. The rail line proposed for abandonment extends approximately 11.9 miles from Milepost 40.10, near Bottineau, to Milepost 52.0, near Souris (the Line). A map depicting the Line in relationship to the area served is appended to this EA. If the notice becomes effective, the railroad would be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way (ROW).

DESCRIPTION OF THE LINE

The Line extends from near Bottineau to near Souris in Bottineau County, North Dakota (ND). The project area is a rural agricultural region. The population of Bottineau was 2,336 in 2000. Souris is not an incorporated town; and therefore, population data are not readily available. Wheat and barley are the principal crops grown in the area.

The ROW of the Line varies from 100 to 200 feet in width. There are eight bridges on the Line that range in length from 41 to 152 feet. All eight bridges are open deck, timber trestle structures that were constructed from 1953 to 1985. BNSF is not aware of any other structures with the ROW of the Line. There are 14 public crossings and eight private crossings on the Line. BNSF is not aware of any hazardous waste sites or sites where there have been known hazardous materials spills on the ROW.

The corridor containing the ROW was acquired by the Great Northern Railway (GN) between 1900 and 1905. GN merged into the Burlington Northern Railway (BN) in 1970. In 1995, BN merged with the Atchison, Topeka and Santa Fe Railway Company to become The Burlington Northern and Santa Fe Railway Company. The Burlington Northern and Santa Fe Railway Company changed its name to BNSF Railway Company in 2005.

BNSF has provided a verified statement indicating that no local traffic has moved on the Line for at least two years and that there is no overhead traffic handled on the Line to be rerouted. Accordingly, the proposed abandonment would not result in the diversion of rail traffic to other modes.

ENVIRONMENTAL REVIEW

BNSF submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities. BNSF served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) reviewed and investigated the record in this proceeding.

According to BNSF, no local traffic has moved over the Line for at least two years and no overhead traffic would need to be rerouted as a result of the abandonment. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Impacts from salvage and disposal of a rail line may include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail ROW, and regrading of the ROW. Salvage may be confined to the ROW, or, if necessary, via the construction of new access points to the ROW. According to BNSF, the proposed abandonment may include the removal of all rails, ties and bridges. BNSF has stated that the placement of dredge or fill material in any inland waterways is not anticipated during salvaging activities. BNSF has not indicated whether the underlying road bed would be removed or retained.

BNSF states that the proposed abandonment should not be inconsistent with local or regional land use plans. The Bottineau County Commissioners commented that the proposed action is consistent with local use plans and the ND Department of Transportation noted that it has no plans for state highway relocation projects in the area. BNSF received no comments regarding alternative public use of the ROW.

The Natural Resources Conservation Service (NRCS) stated that the project should have no significant impact on existing soil and water conservation practices in the area. However, NRCS noted that all natural drainage patterns should be maintained to the extent possible and that land use affected during abandonment should be returned to original land use conditions. Accordingly, we recommend a condition requiring the railroad to consult with NRCS prior to the commencement of salvaging activities regarding measures to minimize impacts to natural drainage patterns and existing land cover.

The U.S. Fish and Wildlife Service (USFWS) noted that if all proposed salvaging activities are confined to the existing ROW, the activities would not impact Waterfowl Production Areas and other lands administered by the USFWS. In the event that salvage plans require activity outside the ROW, we recommend a condition requiring the railroad to consult with the USFWS prior to the commencement of salvaging activities regarding impacts to USFWS-administered lands. The USFWS also recommended five mitigation measures to minimize disturbance to fish and wildlife resources. Accordingly, we recommend a condition that incorporates these mitigation measures.

Regarding Federally listed endangered and threatened species, the USFWS identified three species that may be present within the proposed abandonment's area of influence:

- Whooping crane (*Grus americana*)
- Gray wolf (*Canis lupus*)
- Bald eagle (*Haliaeetus leucocephalus*)

The whooping crane migrates through west and central counties of North Dakota during the spring and fall and prefers to roost on wetlands and stock dams. The gray wolf is an occasional visitor to North Dakota. The Bald eagle migrates statewide during the spring and fall but primarily along major river courses. Because the proposed salvaging activities would largely be limited to the ROW, the proposed abandonment would not be expected to affect these three species. In the event planned salvaging activities would occur outside the ROW, we recommend a condition requiring the railroad to consult with the USFWS prior to the commencement of salvaging activities regarding threatened and endangered species.

The ND Parks and Recreation Department (NDPRD) has reviewed the ND Natural Heritage Inventory for rare species information for the project area. The Dakota skipper (*Hesperia dacotae*) has been recorded in a section adjacent to the project area. According to NDPRD, these records indicate that the habitat in the project area may be suited for this species, or other rare, threatened, sensitive or endangered species. Therefore, we recommend a condition requiring the railroad to consult with the NDPRD prior to the commencement of salvaging activities regarding potential impacts to rare, threatened, sensitive or endangered species.

The National Park Service identified no possible conflicts between the proposed abandonment and the Land and Water Conservation Fund and Urban Park and Recreation Recovery programs. The Bureau of Land Management also noted that it identified no wildlife concerns associated with the proposed abandonment.

The U.S. Army Corps of Engineers (Corps) has stated that the proposed abandonment would not require a permit from the Corps because the railroad has stated that it does not anticipate the placement of dredge or fill material in any inland waterways (Corps project number 200660010).

The ND Office of the State Engineer noted that the proposed abandonment would not appear to impact to state lands or require construction or drainage permits. However, the office stated that any remnant bridge pilings should be removed or cut to grade so that they do not collect debris or otherwise obstruct the drainage of surface waters. We recommend a condition requiring the railroad to consult with the Office of the State Engineer prior to the commencement of salvaging activities regarding planned bridge removal activities.

The North Dakota Department of Health (NDDOH) noted that the environmental impacts from the proposed abandonment should be minor, could be controlled with proper construction methods, and recommended a set of best management practices that should be implemented. We recommend a condition requiring the railroad to consult with the NDDOH prior to the commencement of salvaging activities regarding appropriate and reasonable best management practices.

Although the Bottineau County Road Superintendent stated that the proposed abandonment would not have any effect on 100-year floodplains, the North Dakota State Water Commission (NDSWC) noted that the Line is located within floodplains mapped within both Bottineau and Souris. NDSWC stated that BNSF should apply for a Non-Building Floodplain Development Permit from the floodplain administrators of both cities prior to salvaging activities. We recommend a condition requiring the railroad to consult with the floodplain administrators of Bottineau and Souris prior to the commencement of salvaging activities regarding reasonable requirements.

The U.S. Environmental Protection Agency and the NDDOH both noted that the proposed salvaging activities could be subject to Section 402 of the Clean Water Act. NDDOH is the agency responsible for administering this program. We recommend a condition requiring the railroad to consult with the NDDOH prior to the commencement of salvaging activities regarding Section 402 requirements.

HISTORIC REVIEW

BNSF submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)] and served the report on the State Historical Society of North Dakota (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c).

The SHPO's reply indicated that no historic properties would be affected by the proposed abandonment (ND SHPO Ref.: 06-0178). Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the National Historic Preservation Act at 36 CFR 800.4(d)(1) and 36 CFR 800.8, we have determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

SEA conducted a search of the Native American Consultation Database at www.cast.uark.edu/other/nps/nacd/ to identify Federally recognized tribes that may have ancestral connections to the project area. The database did not identify any tribes within Bottineau County that may have an interest in the proposed abandonment.

CONDITIONS

In order to mitigate the potential environmental impacts from the proposed abandonment, SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. BNSF Railway Company shall consult with the Natural Resources Conservation Service prior to the commencement of any salvaging activities regarding measures to minimize impacts to natural drainage patterns and existing land cover.
2. If salvaging activities would occur outside the existing right-of-way, BNSF Railway Company shall consult with the U.S. Fish and Wildlife Service prior to the commencement of any salvaging activities regarding potential impacts to U.S. Fish and Wildlife Service administered lands.
3. To address the concerns of the U.S. Fish and Wildlife Service, BNSF Railway Company shall incorporate the following mitigation measures in their salvaging plans: avoid construction in Boundary Creek during the fish migration and spawning period from April 15 – June 1; make no stream channel alterations or changes in drainage patterns; defer the timing of construction to late summer (after July 15) or fall so as not to disrupt waterfowl or other wildlife during the nesting season and to avoid high water conditions; install appropriate erosion control measures to reduce sediment transport to adjacent wetlands and stream channels; and reseed disturbed areas with a mixture of native grass and forb species.
4. Prior to the commencement of salvaging activities, BNSF Railway Company shall consult with the U.S. Fish and Wildlife Service regarding potential impacts of planned salvaging activities outside the right-of-way to Federally listed threatened and endangered species. BNSF Railway Company shall report the results of these consultations in writing to the Board's Section of Environmental Analysis prior to the onset of salvaging operations.
5. Prior to the commencement of salvaging activities, BNSF Railway Company shall consult with the North Dakota Office of the State Engineer regarding planned bridge removal activities.

6. Prior to the commencement of salvaging activities, BNSF Railway Company shall consult with the North Dakota Department of Health regarding appropriate and reasonable best management practices that should be implemented during salvaging activities, and regarding Section 402 of the Clean Water Act.
7. To ensure that the 100-year floodplain is not adversely affected, BNSF Railway Company shall consult with the floodplain administrators for the cities of Bottineau and Souris prior to commencement of any salvaging activities regarding potential impacts to the floodplain and shall comply with any reasonable requirements.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations and no salvage activities), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the ROW may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within the time specified in the Federal Register notice. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-

1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, please send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Dave Navecky, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub-No. 439X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Dave Navecky, the environmental contact for this case, by phone at 202-565-1593, fax at 202-565-9000, or e-mail at naveckyd@stb.dot.gov.

Date made available to the public: July 21, 2006

Comment due date: August 4, 2006

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment